

copending Application Ser. No. 09/586,381. Applicants supply herewith a proper Terminal Disclaimer in an effort to overcome this rejection.

The Office has provisionally rejected Claims 1-16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application Ser. No. 09/589,179. Applicants respectfully disagree with such a rejection simply because the '179 application requires specific silver-containing ion-exchange compounds, zeolites, and/or glasses (which use silver ions for antimicrobial efficacy) whereas the pending claims require metal particles or metal oxides as antimicrobial agents (which utilize actual metals or oxides for antimicrobial purposes). There is no overlap between the two, nor is there any source of further motivation to substitute one type of claimed antimicrobial for the other. Thus, it is respectfully urged that such a rejection is improper and withdrawal is merited.

The Office has also rejected Claims 1-6 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Sawan et al. Applicants hereby submit the affidavit of co-inventor David E. Green showing that the retention of silver through the preferred procedures of patentee does not rise to the level as now claimed. Furthermore, as the tested comparative procedures are those of patentee's preferred embodiments, there is no motivation to provide the same improvement simply through review of Sawan et al.'s teachings. As such, there is not only no anticipation over the pending claims, but no fair suggestion supplying the basis of any proper obviousness rejection thereof. Reconsideration and withdrawal of such a basis of rejection are thus earnestly solicited.

CONCLUSION

In view of the amendments and arguments presented above, it is respectfully requested that the prior rejections over the pending claims be withdrawn and the application be passed on to issue.

Respectfully submitted,

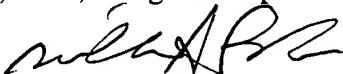
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Box Non-Fee Amendment, Commissioner for Patents, Washington, DC 20231, on May 30, 2002, along with a postcard receipt.



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